



State of Washington
Department of Revenue

Excise Tax Advisory

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NUMBER: 49.04.171

CONVERSION DATE: July 1, 1998

PUBLIC ROAD CONSTRUCTION INCLUDED IN A LUMP SUM GENERAL CONSTRUCTION CONTRACT

Issued July 8, 1966

Is the construction of publicly owned roads taxable as a retail sale where the contract or records of the contractor only show a lump sum amount and fail to provide a separate accounting for roads to be constructed as a part of a construction project?

A contractor was hired on a lump sum contract to construct a large number of family housing units, related facilities, streets and sidewalks within a subdivision. The contract did not itemize the work, leaving unstated the amount for construction of public roads.

The Commission held that the records of a taxpayer need only prove that such work was performed and need only establish that the value as reported for Excise Tax purposes is reasonable to be taxable under RCW 82.04.280 "Public Road Construction" rather than RCW 82.04.250 "Retailing". According to RCW 82.04.190 "sale at retail" shall not include the sale of or charge made for labor and services rendered for:

"... the building, repairing or improving of any publicly owned street, place, road, highway, bridge or trestle which is used or to be used primarily for foot or vehicular traffic..."

The Commission observed that in contracts calling for the construction of publicly owned roads the contractor must pay Use Tax on the value of all materials used or consumed in performance of such work when purchases of such material have not been subjected to the Retail Sales Tax.

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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